

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

NO. 4:19-cv-00332-SRB

SCOTT AND RHONDA BURNETT, RYAN HENDRICKSON,)
JEROD BREIT, SCOTT TRUPIANO and JEREMY KEEL,)
on behalf of themselves and all others)
similarly situated,)
Plaintiffs,)

vs.)

THE NATIONAL ASSOCIATION OF REALTORS, REALOGY)
HOLDINGS, CORP., HOMESERVICES OF AMERICA,)
INC., BHH AFFILIATES, LLC, HSF AFFILIATES,)
LLC, RE/MAX, LLC and KELLER WILLIAMS REALTY,)
INC.,)
Defendants.)

VIDEOTAPED DEPOSITION of LINDA A.
O'CONNOR, called as a witness by and on behalf of
the Plaintiffs, pursuant to the applicable
provisions of the Federal Rules of Civil Procedure,
before P. Jodi Ohnemus, RPR, RMR, CRR, CA-CSR
#13192, NH-LSR #91, MA-CSR #123193, and Notary
Public, within and for the Commonwealth of
Massachusetts, at Heney & Associates, LLC, 86 Dodge
Street, North Beverly, Massachusetts, on Wednesday,
November 30, 2022, commencing at 9:20 a.m.

1 VIDEO OPERATOR: Today is Wednesday,
2 November 30th, 2022. We will go on the record at
3 9:20 a.m. Will the court reporter please swear in
4 the witness.

5 LINDA A. O'CONNOR, having
6 satisfactorily been identified by
7 the production of a driver's license,
8 and being first duly sworn by the Notary
9 Public, was examined and testified as
10 follows to interrogatories

11 BY MR. KETCHMARK:

12 Q. Can you please state your name.

13 A. My name is Linda O'Connor.

14 MR. KETCHMARK: I'm hearing feedback from
15 something. Is somebody --

16 (Discussion off the record.)

17 Q. Start again.

18 Can you please state your name.

19 A. Linda O'Connor.

20 Q. Ms. O'Connor, we're here in Massachusetts
21 where you live for purposes of taking your
22 deposition; is that true?

23 A. That is true.

24 Q. Can you please turn with me to Exhibit No.
25 2075, and I have it also on the computer that I'm

1 A. I was in the real estate business actively
2 for 35 years.

3 Q. Okay. And in doing so, did you deal with
4 residential real estate?

5 A. Yes.

6 Q. Representing buyers and -- and sellers of
7 homes?

8 A. Yes.

9 Q. It states in here that you were affiliated
10 with LUX Realtor North Shore, which serves the
11 North Shore of Boston, Massachusetts?

12 A. At one time, yes.

13 Q. Okay. And it states that you were a
14 member of various associations, including the
15 National Association of Realtors?

16 A. That is correct.

17 Q. When did you first become associated with
18 the National Association of Realtors?

19 A. To the best of my recollection, it would
20 be approximately 1983.

21 Q. And one of the things that you did from
22 1983 forward, you actually became very involved in
23 leadership positions with NAR; is that correct?

24 A. That is correct.

25 Q. Can you tell the jury a little bit about

1 your background in leadership with NAR?

2 A. With NAR?

3 Q. Yes.

4 A. With NAR I was not necessarily in
5 leadership specifically. It was in committee work.

6 Q. Okay.

7 A. Served on several different committees at
8 the national level. Was much more involved in
9 state and local associations of realtors.

10 Q. Okay. And tell the jury a little bit
11 about your involvement in state and local
12 associations of realtors.

13 A. Local associations starting when I joined
14 the association -- I think it was the first -- not
15 necessarily training session, but there was a --
16 some sort of a meeting, and we were learning about
17 the forms. And I brought up the fact that there
18 was a problem with one of the forms, and they said,
19 "Good. You're on the forms committee."

20 Q. Ah.

21 A. And it started there. And from then I
22 served on just about every single committee at the
23 local level. In 19- -- in the late 1980s, I was
24 named as one of the three people from our
25 association, which I believe at the time was

1 now in the hands of the National Association of
2 Realtors.

3 (Exhibit 601, Proposal to the Professional
4 Standards Committee...,
5 NARSITZER57906-911, previously marked.)

6 A. That is correct.

7 Q. And in this, one of the things that I
8 talked about --

9 A. Can I --

10 Q. Yeah, please.

11 A. May I -- may I interrupt you for a second?
12 When you say that I forwarded to the National
13 Association of Realtors, that is not actually fully
14 correct.

15 Q. Okay. Tell me how -- how did this -- we
16 got this from the National Association of Realtors.
17 Do you know how -- how the general counsel got this
18 and the folks in leadership received this?

19 MS. WRIGHT: Object to form.

20 A. I know what the path was.

21 Q. Please tell me.

22 A. Okay. I know that an individual may not
23 have the impact of a larger group and/or an
24 association, and so what I did was I brought this
25 particular proposal to what was then the

1 national -- excuse me -- the North Shore
2 Association of Realtors. I had been the president
3 of the North Shore Association of Realtors in 1996;
4 had served on just about every single committee.
5 And so I decided to bring the proposal to the North
6 Shore Association of Realtors and its board of
7 directors.

8 I requested presence at a board of
9 directors meeting. And the president and the
10 association at the time I believe -- that doesn't
11 make any difference who -- Susan Klein was the
12 executive vice president, I believe, or she was the
13 CEO.

14 And I brought this particular proposal to
15 them at a meeting. And what it was was discussed.
16 It was moved, seconded, and approved to send it to
17 the National Association of Realtors.

18 Q. Yeah.

19 A. So this -- my proposal came through the
20 national association -- through the North Shore
21 Association of Realtors to the national
22 association. So not directly from me. So when you
23 say I did; I didn't.

24 Q. I understand that.

25 A. Thank you.

1 MS. WRIGHT: Object to form.

2 Q. Go ahead.

3 THE WITNESS: I'm sorry. I did not hear
4 that.

5 Q. That's for the judge. She's just
6 objecting to my question.

7 A. Okay.

8 The direct answer to your question is yes.
9 I've had the privilege or honor of working with
10 many talented, wonderful attorneys. I do not
11 profess to be an attorney. I do not profess to
12 knowing the law. And those people with whom I've
13 had the opportunity to work have taught me, have
14 coached me, have listened and have helped me for
15 the last 40 years.

16 Q. One thing you did state here is that your
17 understanding was the Sherman Antitrust Act is very
18 clear that you can't engage in price fixing;
19 correct?

20 MR. MacGILL: Objection.

21 MS. WRIGHT: Object to form.

22 MR. MacGILL: Objection. Move to strike
23 reference to that sentence by this witness who's
24 not qualified to make that opinion.

25 MR. KETCHMARK: Just leave the objection

1 to form.

2 A. Go ahead. That's what you state; correct?

3 MR. KLIEBARD: Also -- this is Kenneth
4 Kliebard. Objection. Foundation.

5 A. I did not hear that comment. If you're
6 asking me did I write that in --

7 Q. That's what I'm asking you.

8 A. Yes, I did, and I do not profess to be an
9 expert.

10 Q. You say, (as read):

11 "We all understand that we cannot set fees
12 other than our own."

13 You stated that; correct?

14 A. Yes.

15 MR. MacGILL: Object to -- object to the
16 form.

17 Q. You say, (as read):

18 "My contention is traditional method of
19 compensation of the seller and broker 'setting'
20 compensation to be paid to a cooperating agent's
21 company or firm is the ultimate form of restraint
22 of trade and indeed represents price fixing in a
23 free market."

24 You wrote that; correct?

25 A. I did.

EXAMINATION

BY MR. MacGILL:

Q. So, ma'am, I introduced myself earlier.
I'm Rob MacGill.

VIDEO OPERATOR: Mr. MacGill, I'm sorry to
interrupt. Your microphone, please.

MR. MacGILL: All right. Thank you, Rick.

A. Would you spell your last name for me too.

Q. Of course, yeah.

A. Thank you.

Q. Good morning --

A. Good morning.

Q. -- Ms. O'Connor. I'm Rob MacGill, M-a-c
G-i-l-l. I represent HomeServices of America and
some of its affiliated companies in this matter,
and with me is my partner Matthew Ciulla.

So we're here today to ask you some
questions as well. So like Mr. Ketchmark, we've
got some questions for you as well; okay?

A. Yes, sir.

Q. All right. So to begin, what I'd like to
do is just make sure I understand a little bit more
about your personal background; and let me ask you
first, could you tell us about your educational
background.

1 A. I received a college degree, a bachelor of
2 science in education, junior high English, from
3 Salem State, which was Salem State College at the
4 time.

5 Q. In what year, ma'am?

6 A. In what year?

7 Q. Yes.

8 A. 1970.

9 Q. 1970?

10 A. 1970.

11 Q. So BS degree?

12 A. 52 years ago, yes.

13 Q. 52 short years ago; right?

14 A. 52 short years ago.

15 Q. All right. So your formal education ended
16 at that time?

17 A. Say that again?

18 Q. Your formal education ended at that time;
19 is that correct?

20 A. That is true.

21 Q. But you -- nevertheless, as you've already
22 described to Mr. Ketchmark, you had some 35 years
23 as a realtor, did you not?

24 A. Yes, sir.

25 Q. All right. Now -- and I think you said

1 this, you don't profess to be a lawyer; is that
2 right?

3 A. That is correct. May I make --

4 Q. So the jury -- hold on one second.

5 So the jury understands completely and
6 unequivocally, you have no legal education of any
7 kind or nature; is that right? No formal legal
8 education?

9 A. That is true.

10 Q. And just so the jury also understands, you
11 are not suggesting or implying that you have legal
12 expertise, are you?

13 A. When you say no expertise, would you
14 please quantify and qualify that?

15 Q. Yeah. Do you have any formal legal
16 training of any kind or nature?

17 A. No, sir.

18 Q. We discovered that. And you're not an
19 expert on any terms associated with the antitrust
20 laws of the United States; is that right?

21 A. That is true.

22 Q. And, in fact, if I ask you to name the
23 elements of the Sherman Act, would you know what
24 those were?

25 A. From 1898? No, sir, I will not -- I can't

1 do that.

2 Q. You, in fact -- and not to be
3 disrespectful, but you haven't read a single case
4 of the -- applying the Sherman Act in the United
5 States for your own --

6 A. No, that is not true. I have read. I do
7 not recall -- and I would point out, sir, that
8 your -- your original part of the question, in
9 terms of a realtor for 35 years, I would point out
10 that I am no longer a realtor. I'm no longer a
11 member of the National Association of Realtors.

12 Q. When did you last -- when did you last
13 serve in the capacity as a realtor?

14 A. It was either 2019 or 2020.

15 Q. Okay. So are you currently employed?

16 A. Yes.

17 Q. And how are you employed currently?

18 A. I deliver car parts, sir.

19 Q. Okay. And how long have you had that job?

20 A. A year.

21 Q. Okay. And before -- can you tell us what
22 company you work for currently?

23 A. Fisher Auto Parts.

24 Q. And is that -- where is that based, ma'am?

25 A. In Peabody, Massachusetts.

Veritext Legal Solutions
1100 Superior Ave
Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

December 7, 2022

To: Bill@heneylaw.com

Case Name: Burnett, Scott And Rhonda Et Al. v. The National
Association Of Realtors Et Al.

Veritext Reference Number: 5548030

Witness: Linda A O'Connor Deposition Date: 11/30/2022

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness
review the transcript and note any changes or corrections on the
included errata sheet, indicating the page, line number, change, and
the reason for the change. Have the witness' signature notarized and
forward the completed page(s) back to us at the Production address
shown
above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of
this letter, the reading and signing will be deemed waived.

Sincerely,
Production Department

NO NOTARY REQUIRED IN CA

Veritext Legal Solutions

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5548030

CASE NAME: Burnett, Scott And Rhonda Et Al. v. The National
Association Of Realtors Et Al.

DATE OF DEPOSITION: 11/30/2022

WITNESS' NAME: Linda A O'Connor

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have made no changes to the testimony
as transcribed by the court reporter.

Date Linda A O'Connor

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;

They signed the foregoing Sworn
Statement; and

Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal

this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5548030

CASE NAME: Burnett, Scott And Rhonda Et Al. v. The National
Association Of Realtors Et Al.

DATE OF DEPOSITION: 11/30/2022

WITNESS' NAME: Linda A O'Connor

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have listed my changes on the attached
Errata Sheet, listing page and line numbers as
well as the reason(s) for the change(s).

I request that these changes be entered
as part of the record of my testimony.

I have executed the Errata Sheet, as well
as this Certificate, and request and authorize
that both be appended to the transcript of my
testimony and be incorporated therein.

Date

Linda A O'Connor

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;

They have listed all of their corrections
in the appended Errata Sheet;

They signed the foregoing Sworn
Statement; and

Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date